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EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT

PAPER NUMBER

2161

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/966,246

Applicant(s)

HOUSTON ET AL.

Examiner

Etienne P LeRoux

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Status:***

Claims 1-25 are pending. Claims 1-25 are rejected as detailed below.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 13-22 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat No 5,838,918 issued to Prager et al (hereafter Prager).

**Claims 1, 13 and 25 :**

Prager discloses:

- creating the template based on design information, said creating the template implemented by a template manager [col 5, lines 8-18, col 6, lines 53-56, col 8, lines 42-49]
- storing the template in a template manager database, said storing the template implemented by the template manager [col 5, lines 19-28, Fig 5, 400, col 6, lines 5-56]
- generating the N instances based on the template and on control information for the N instances, said control information including configuration control information, said configuration control information identifying N locations corresponding to the N

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instances, said N at least 2, said generating the N instances implemented by the template manager [col 6, lines 30-40, Fig 5, 400, col 10, lines 24-32];

- storing the N instances in the template manager database, said storing the N instances implemented by the template manager [col 6, lines 30-40, Fig 5, 400, col 10, lines 24-32, Fig 10, 200]
- transmitting the N instances to the corresponding N locations, said transmitting the N instances implemented by the template manager [col 6, lines 30-40, Fig 5, 400, col 10, lines 24-32, Fig 10, 200].

Claims 2 and 14:

Prager discloses said control information further including administrative information [col 10, lines 57-67].

Claims 3 and 15:

Prager discloses said administrative information being location dependent [col 10, lines 57-67]

Claims 4 and 16:

Prager discloses said administrative information including administrator information [col 10, lines 57-67].

Claims 5 and 17:

Prager discloses said control information comprising access control information, said access control information identifying at least one access control group for each instance of the N instances, wherein if a plurality of access control groups are associated with a given instance

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then each such access control group of the plurality of access control groups has an independent level of access control relating to the given instance [claim 1(b)].

Claims 6, 10, 18 and 22:

Prager discloses obtaining the design information, said obtaining implemented by an agent; and transmitting the design information to the template manager, said transmitting the design information implemented by the agent [Fig 9, 900]

Claims 7 and 19:

Prager discloses obtaining a portion of the control information, said obtaining implemented by an agent; and transmitting the portion of the control information to the template manager, said transmitting the portion of control information implemented by the agent [Fig 9]

Claims 8 and 20:

Prager discloses transmitting the N instances comprising transmitting the N instances to the corresponding N locations over telephone lines or cable lines [Fig 1].

Claims 9 and 21:

Prager discloses refreshing the template based on update design information, said refreshing the template implemented by the template manager; refreshing the N instances based on the refreshed template, said refreshing the N instances implemented by the template manager; and transmitting the N refreshed instances to the corresponding N locations, said transmitting the N refreshed instances implemented by the template manager [col 7, lines 43-54]

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 11, 12, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prager.

Claims 11 and 23:

Prager discloses the elements of claim 1 as noted above.

Prager fails to disclose refreshing M instances of the N instances based on update control information, said  $M \leq N$ , said refreshing the M instances implemented by the template manager; and transmitting the M refreshed instances to the corresponding M locations, said transmitting the M instances implemented by the template manager.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Prager to include refreshing M instances of the N instances based on update control information, said  $M \leq N$ , said refreshing the M instances implemented by the template manager; and transmitting the M refreshed instances to the corresponding M locations, said transmitting the M instances implemented by the template manager.

The ordinarily skilled artisan would have been motivated to modify Prager per the above for the purpose of confining updates to those clients who requested the updates.

Claims 12 and 24:

Prager discloses further comprising providing the update design information to the template manager, said providing the update design information implemented by an agent [Fig 9, 900].

***Response to Arguments***

Applicant's arguments filed 11/22/2004, have been considered and found not persuasive.

**Applicant Argues:**

Applicant states in the third paragraph on page 10 that Prager does not disclose "creating the template based on design information, said creating the template implemented by a template manager."

**Examiner Responds:**

Examiner is not persuaded. MPEP section 2111.01 requires that during examination, claims must be interpreted as broadly as their terms reasonably allow. This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in

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the specification. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). In paragraph 30 of the specification, applicant states design information comprises information as to how the database is organized and structured and may include, inter alia, tables, columns in each table, data types, titling, data justification, color, etc. Examiner maintains that applicant has not provided a clear definition of design information. Citing examples of what design information may comprise and/or may include is not a clear and concise definition. Examiner will rely on the art-accepted definition of design information.<sup>1</sup> A design cycle is defined as all phases involved in developing and producing new hardware or software, including product specification, creation of prototypes, testing debugging and documentation. Turning to Prager's disclosure in column 6, lines 53-56, Prager states "A template is defined as a data structure organized to model an abstraction of some portion of a system or network configuration. Each template logically maintains a database of configuration information." Prager's template which models an abstraction of some portion of a system or network configuration clearly reads on the claim limitation "creating the template based on design information."

Consider the claim language "creating the template implemented by a template manager." Once again it is necessary to consider whether applicant has provided a clear definition of the word "creating" and the word "implemented." In paragraph 32 of the specification, applicant states "The template manager 12 utilizes the design information to create a template from which database instances will be generated." Examiner maintains applicant has provided a clear definition of the word "creating" and the word "implementing." Turning to Prager's disclosure in column 8, lines 42-49, Prager states "The template manager 700 provides the basic

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<sup>1</sup> Microsoft Computer Dictionary, Fifth Edition



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functionality which is used to support the template paradigm. This includes the management of template databases and supports a number of interfaces for reading and writing the database, adding new records, and modifying existing records. Template managers also provide a mechanism for setting up subscription relationships and for performing the propagation of the template database.” Prager’s disclosure that the template manager provides basic functionality reads on the claim word “creating” and furthermore, Prager’s disclosure that the template manager supports propagation of the template database to subscribers reads on the claim word “implementing.”

**Applicant Argues:**

Applicant states in the seventh paragraph on page 10 that Prager does not disclose “storing the template in a template manager database, said storing the template implemented by the template manager.”

**Examiner Responds:**

Examiner is not persuaded. Prager discloses in column 6, lines 50-56 the following, “An example view of the central configuration database 400 is shown in FIG. 5. The central configuration database is now seen to be organized into a set templates, for example 500, 505 and 510. A template is defined as a data structure organized to model an abstraction of some portion of a system or network configuration. Each template logically maintains a database of configuration information.” Furthermore, Figure 5 depicts a central configuration database 400 comprising file system templates 500, user templates 505 and group templates 510.” Prager’s disclosure as outlined above clearly reads on the claim limitation “storing the template in a template manager database, said storing the template implemented by the template manager.”

**Applicant Argues:**

Applicant states in the third paragraph on page 11 that “Prager does not teach each and every feature of claims 1, 13, and 25, Prager does not teach the following feature of claim 1 (and similarly for claims 13 and 25): ‘generating the N instances based on the template and on control information for the N instances, said control information including configuration control information, said configuration control information identifying N locations corresponding to the N instances, said N at least 2, said generating the N instances implemented by the template manager; storing the N instances in the template manager database, said storing the N instances implemented by the template manager; transmitting the N instances to the corresponding N locations, said transmitting the N instances implemented by the template manager.’”

**Examiner Responds:**

Examiner is not persuaded. Prager’s Figure 4, shows four subscribers 105 each with their own database 200. Prager describes the general approach to the distributed system’s management problem in column 6, lines 30-40 as following: “Distributed components 105 express interest in receiving configuration information from the central configuration database 400 through a process we call ‘subscription.’ By subscribing to the central configuration database or, as we shall see in FIG. 5, to a particular portion of the central configuration database, the component 05 establishes a persistent relationship which is also stored in the database 400 through which it becomes eligible for future distributions or propagation of the configuration information to which it subscribes.” Examiner maintains Prager clearly reads on above claim limitation which claims generation of N instances and distribution of the N instances.

**Applicant Argues:**

Applicant states in the sixth paragraph on page 12 “As a fourth example illustrating that Prager does not teach each and every feature of claims 1, 13 and 25, Prager does not teach the following feature of claim 1 (and similarly for claims 13 and 25): ‘storing the N instances in the template manager database, said storing the N instances implemented by the template manager .... and transmitting the N instances to the corresponding N locations, said transmitting the N instances implemented by the template manager.’”

**Examiner Responds:**

Applicant is referred to supra responses.

**Applicant Argues:**

Applicant states on page 15 “the examiner has provided a reason for combination based on the examiner’s creativity and speculation, and not by teachings of the prior art.”

**Examiner Responds:**

Examiner is not persuaded. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, examiner maintains that knowledge generally available to one of ordinary skill in the art would have been sufficient to modify the teachings of the prior art to produce the claimed invention. Examiner notes applicant’s specification states

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that "Generally, if N instances have been created (N greater than or equal to 2) then said updating of control information may occur for M instances of the N instances, where M is less than or equal to N. Examiner maintains that it is clearly obvious to the ordinarily skilled artisan to make M equal to N and thus update all instances which have been created when the information is pertinent to all instances, i.e., subscribers 105 per Prager's Figure 4. Furthermore, it would have also been equally obvious to the ordinarily skill artisan to refresh only the pertinent instances, and in such a case M would be less than N.

**Examiner's Summary:**

Examiner is confused by applicant's response. Applicant recites the claim limitations of the independent claims and then states the cited prior art does not teach the limitation when examiner has mapped each claim limitation element by element to the cited prior art. In response to applicant's arguments, examiner has no recourse but to once again, however, in somewhat greater detail, refer applicant to the cited prior art. Applicant's arguing broad claim language such as "creating," "implementing" and "design information" from an examiner's perspective is nonproductive because such broad claim language cannot be used for purposes of establishing a "reason(s) for allowance." Furthermore, examiner notes Rule 37 CFR 1.111(b) requires Applicant to "distinctly and specifically point out errors" in the examiner's action. Also, arguments or conclusions of Applicant cannot take the place of evidence. *In re Cole*, 51 CCPA 919, 326F.2d 769, 140 USPQ 230 (1964).

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***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (571) 272-4023.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Patent related correspondence can be forwarded via the following FAX number (703) 872-9306

Etienne LeRoux

2/22/2005

  
**SAFET METJAHIC**  
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